

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

RAY L. ALEXANDER,)
)
Plaintiff,)
)
v.) No. 4:23-cv-1308 RWS
)
TY TAYLOR,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on review of the file. On October 24, 2023, the Court ordered Plaintiff to either pay the \$402 filing fee or file an ‘Application to Proceed in District Court Without Prepaying Fees or Costs’ on a Court-provided form. ECF No. 2. Instead of paying the fee or filing a completed Application, Plaintiff filed an “Affidavit for Lack of Lawful Monies & Request to Proceed Without Prepaying Fees or Costs & Advancement of Docket.” ECF No. 3. He attached a blank copy of the Court-form Application to his affidavit. ECF No. 3-1. Because Plaintiff’s affidavit does not comply with the Local Rules of this Court or the federal statute under which it may be granted, to the extent his affidavit seeks leave to proceed *in forma pauperis*, it will be denied. The Court will direct Plaintiff to file an Application on a Court-provided form or pay the full filing fee. The Court warns Plaintiff that his failure to comply with this Order will result in dismissal of this action.

Under the Local Rules of this Court: "An application to proceed in forma pauperis shall be accompanied by a statement of the applicant's financial information set forth on a form provided by the Court. The Court may require the submission of additional information in a particular case." E.D. Mo. L.R. 2.05(A). Additionally, under the Local Rules, the Clerk can return any complaint

submitted for filing *in forma pauperis* which is not accompanied by an affidavit as required by 28 U.S.C. § 1915(a). E.D. Mo. L.R. 2.05(C).

The Court may authorize the commencement or prosecution of a civil action without prepayment of fees if the plaintiff demonstrates he or she “is unable to pay such fees or give security therefor.” 28 U.S.C. § 1915(a)(1). *In forma pauperis* status is a matter of privilege, not of right. *Williams v. McKenzie*, 834 F.2d 152, 154 (8th Cir. 1987). To enjoy the statute’s benefits, a litigant need not show that he is “absolutely destitute,” but he must demonstrate that, because of his poverty, he cannot pay for the litigation costs and still be able to provide for the necessities of life. *Adkins v. E.I. DuPont de Nemours & Co.*, 335 U.S. 331, 339 (1948); *see also Lee v. McDonald’s Corp.*, 231 F.3d 456, 459 (8th Cir. 2000).

In this case, Plaintiff’s affidavit does not provide any of the information the Court needs to assess whether Plaintiff may proceed without paying the filing fee under 28 U.S.C. § 1915(a)(1). Plaintiff states only that he “is unable to ‘pay’ any lawful monies into account, as it would be impossible to provide a lawful security or bond for this administration . . . without passing on reserve notes.” *Id.* at 1. Plaintiff provides no information on his income or his assets. Without this information, the Court cannot determine whether Plaintiff should be granted *in forma pauperis* status.

Under 28 U.S.C. § 1915, Plaintiff must either provide the required financial information on a complete ‘Application to Proceed in District Court without Prepaying Fees or Costs,’ or pay the full filing fee in order for this case to proceed. The Court will again send Plaintiff the form Application. If Plaintiff does not either pay the \$402 filing fee or complete and return the Application within twenty-one (21) days of the date of this Order, the Court will dismiss this action without prejudice and without further notice to Plaintiff.

Accordingly,

IT IS HEREBY ORDERED that the Clerk of Court shall mail to Plaintiff a blank ‘Application to Proceed in District Court without Prepaying Fees or Costs’ form.

IT IS FURTHER ORDERED that Plaintiff must either pay the \$402 filing fee or submit a completed Application within **twenty-one (21) days** of the date of this Order.

IT IS FURTHER ORDERED that if Plaintiff fails to comply with this Order, the Court will dismiss this action without prejudice and without further notice.

IT IS FINALLY ORDERED that Plaintiff’s Affidavit for Lack of Lawful Monies & Request to Proceed without Prepaying Fees or Costs [ECF No. 3], to the extent it can be construed as a Motion to Proceed *In Forma Pauperis*, is **DENIED**.

Dated this 13th day of December, 2023.



RODNEY W. SIPPEL
UNITED STATES DISTRICT JUDGE